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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,690	09/12/2003	David D. Brandt	03AB014B/ALBRP303USB	7383

7590 04/27/2010  
Susan M. Donahue  
Rockwell Automation, 704-P, IP Department  
1201 South 2nd Street  
Milwaukee, WI 53204

EXAMINER
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KIM, TAE K

ART UNIT	PAPER NUMBER
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2453

MAIL DATE	DELIVERY MODE
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04/27/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/661,690	BRANDT ET AL.	
	Examiner	Art Unit	
	TAE K. KIM	2453	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-5,9,11-22,24-29 and 32.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 03/29/10
13. ☐ Other: \_\_\_\_\_.

/Tae K. Kim/  
Tae K. Kim, Examiner AU 2453

/Liangche A. Wang/  
Primary Examiner, Art Unit 2453

Continuation of 11. does NOT place the application in condition for allowance because: Claim 1 has been amended incorporating the limitations of Claim 10. Regarding amended Claim 1 rejected by Batke, the Applicant attempts to distinguish the pending claim over the prior art by indicating that an alternative aspect of the invention does not indicate a CIP protocol "having a path segment adapted to include a segment identifying a requestor" [See Remarks Pg. 10, 3rd Para.]. However, the Applicant is choosing one alternative security protocol over other security protocols used by the prior art. Batke discloses the use of Public Key Infrastructure (PKI), which defines the trust relationship with the remote system and the controller using a certificate [Col. 5, lines 29-36]. The certificate may include an identifier field, a public key field, a serial number, expiration date and a digital signature field [Col. 5, lines 36-38]. Therefore, the protocol is adapted to include a segment identifying a requestor.

Regarding amended Claim 1 rejected by Salowey, in view of Braatz, the Applicant attempts to distinguish the pending claim over the prior art by indicating that the OCIP protocol is a proprietary protocol [See Remarks Pg. 12, 2nd Para.]. However, the Applicant's argument does not explain why the OCIP header format that clearly indicates a source device field [Fig. 6; Para 0136] does not disclose that the protocol has a "path segment adapted to include a segment identifying a requestor of a connection between the automation assets.

Regarding Claims 17-24, the Applicant is reminded that the claims are "given the broadest reasonable interpretation consistent with the specification" [In re Prater, 162 USPQ 541 (CCPA 1969)] and "consistent with the interpretation that those skilled in the art would reach" [In re Cortright, 49 USPQ2d 1464 (Fed. Cir. 1999)]. As stated previously, Branstad discloses that the "heartbeat interval" is timeout interval during which an ACSA participant should expect to receive a control message from the remote party [Col. 6, lines 5-11]. Branstad further discloses that the sender re-determines the authentication gear based on local and remote information including a notification from the receiver [Fig. 5; Col. 7, 38-54]. Furthermore, when a gear change is determined to be necessary, the sender attempts to synchronize with the receiver using a switch gear message and if the receiver does not return a gear switch acknowledgement message before the expiration of the heartbeat interval, the sender switches back to the base gear (the most secure gear) [Fig. 7A and 7B; Col. 8, lines 23-67]. Therefore, the Branstad system uses the heartbeat interval to timeout non-base gear data transactions when the heartbeat interval lapses without a gear switch acknowledgement message and non-base gear data transactions can resume when a subsequent determination of the authentication gear is made by the sender.

The fact that the non-base gear data transactions are timed-out when no acknowledgement message is received is sufficient. The claim limitation do not specify that "all data transactions" or "secure data transactions" are timed out. The claim limitation is worded broadly and can be interpreted as indication any type of data transaction being timed out. Without further clarification of the claims, the prior art reads on the pending claim limitations.

Regarding Claims 25-29, the Applicant refers back to the timeout interval presented above [See Remarks Pg. 15-16]. The Examiner restates the arguments above regarding Claims 17-24..